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Free
MUMIA ABU-JAMAL

The International Tribunal on the Case of Mumia Abu-Jamal

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If we free Mumia, the oppressors' ability to arbitrarily punish those who struggle against them will have been denied, transcended, overcome in one of their most valued targets. Such a victory...translates into a tangible consciousness of force among those systematically conditioned to perceive themselves as powerless. That psychological sea change could unleash potential for liberation in almost limitless ways.

It is perhaps predictable that in order most efficiently to maintain the structure of oppression, the oppressor moves selectively to decapitate the body of the oppressed masses, seizing upon and eliminating those best endowed with an ability to conceive and communicate an alternative vision of the world as it might be, and thus most likely to inspire the masses to pursue the business of their own liberation.

-- Frantz Fanon

On December 6, 1997, an international tribunal composed of 23 prominent jurists and other figures from seven countries convened in Philadelphia, Pennsylvania.[1] Its purpose was to hear testimony by selected witnesses in the case of imprisoned African American journalist Mumia Abu-Jamal, a self-described "professional revolutionary" currently awaiting execution on the state's death row. Although only a single day long, the tribunal members had earlier reviewed voluminous written, photographic and recorded evidence, including hundreds of pages of official documents. After the presentations were completed, the panel retired to prepare its

preliminary findings in the matter, a document submitted to the United Nations Secretariat in New York on International Human Rights Day (December 10).

Such tribunals, following procedures established by the UN Economic and Social Council (ECOSOC) under Resolution 1503 (XLVII), derive their authority from Article 38(d) of the Statute of the International Court of Justice.[2] They are also authorized by the UN's 1946 Affirmation of the Principles of International Law Recognized by the Charter of the Nuremberg Tribunal and several other elements of international law.[3] As a consequence, the late Bertrand Russell established a standing body during the 1960s to consider such issues as US war crimes in Southeast Asia and the rights of the indigenous peoples of the Americas.[4] Russell's prototype was more fully institutionalized after the 1976 Algiers Declaration, when Lelio Basso formed the Rome-based permanent International People's Tribunal.[5]

Noteworthy recent US applications of the model have included the Special International Tribunal on the Violation of Human Rights of Political Prisoners and Prisoners of War in United States Prisons and Jails, convened in New York during December 1990; the International Tribunal on Indigenous Peoples and Oppressed Nations in the United States, convened in San Francisco during October 1992; and the People's International Tribunal on the Rights of Indigenous Hawaiians, convened in Honolulu during August 1993.[6] In Canada, the Chiefs of Ontario have also convened an ongoing tribunal on that country's violation of native peoples' rights in the upper regions of North America.[7]

At least in principle, the conclusions such bodies reach are formally incorporated into the progressive formulation of international law mandated by the United Nations Charter.[8] They have on occasion also served as the basis for official UN investigations of and interventions into the circumstances or conditions described.[9] Moreover, they have figured in domestic litigation and policy articulation in ways which, while impossible to quantify, have yielded undeniably constructive results.[10] Tribunals like Mumia's are far more than mere "propaganda stunts" or "educational fora."[11]

The Target

The panel first considered background material and direct testimony on the nature of the man whose case they were considering. Born Wesley Cook, Mumia Abu-Jamal cofounded the Philadelphia chapter of the Black Panther Party in 1969, at the age of 15.[12] Thereafter, he served as local communications secretary. As such, he wrote columns for the national *Black Panther* newspaper and produced an impressive list of pamphlets, interviews and other educational materials while "charging [his] pen with a distinctive anti-authoritarian and anti-establishment character that survives to this day."[13] The quality of his prose was such that he acquired a certain celebrity and was featured on the front page in the *Philadelphia Inquirer* on January 1970.

He also attracted another kind of attention. This was the period when FBI Director J. Edgar Hoover publicly branded Black Panthers' community self-sufficiency and self-

determination programs "the greatest threat to the internal security of the country."[14] More quietly, Hoover ordered a complete destruction of the Party through the Bureau's secret domestic counter-intelligence program (COINTELPRO), a blatantly illegal operation designed to "disrupt, misdirect, discredit, or neutralize" individuals and organizations the director deemed politically objectionable any and all available means.[15] While the range of groups targeted spared no race or ethnicity, Hoover seems to have an especially been imbued with an especially virulent animus against African Americans; among other things, COINTELPRO explicitly wished to prevent the "rise of a black messiah" capable of galvanizing his/her community to end its subordinate status in American life.[16]

So it was that an inordinately talented black 16-year-old, a young man who in any reasonable society might have been embraced as an example worthy of emulation by other inner city teenagers, was instead placed under continuous surveillance and assigned a spot in the "key agitators index" of the most powerful police agency in the United States.[17] At about the same time, he began to receive death threats from the Philadelphia Police Department's Red Squad (known as at the time as the "Civil Disobedience Squad"), the "sharp end" of then-Police Commissioner Frank Rizzo's notoriously brutal, racist and reactionary enforcement apparatus.[18] It is important to bear in mind that the target was at no point accused or even suspected of actual criminal activity by either the FBI or the Philadelphia police.

Even as the Black Panther Party disintegrated under the hammer blows of COINTELPRO during the early '70s, its leadership murdered, imprisoned or driven into exile, its rank-and-file members confused, intimidated and dispirited by relentless police assaults, infiltration and disinformation, Mumia's work continued unabated.[19] Shifting from print journalism to electronic media, he secured a nightly program on Philadelphia's radio station WUHY (now WHYY) and by 1977 was broadcasting regularly on the National Black Network, the Mutual Black Network, National Public Radio and the Radio Information Center for the Blind. By 1980, at the age of 26, he had received the prestigious Peabody Award for Radio Journalism and was rewarded for the consistent excellence of his work by being elected president of the Philadelphia chapter of the Association of Black Journalists.[20]

Meanwhile, having married and fathered children, Mumia was finding it increasingly difficult to make ends meet. In stark contrast to the salaries paid that legion of hacks inhabiting the "news desks" of mainstream papers and broadcast networks, his blend of breakthrough reportage and undeviating journalistic integrity failed to generate anything approaching a living wage.[21] As a consequence, he found it necessary to take a job driving a taxi on the graveyard shift, not only to support his family but to secure the wherewithal to be able to continue his real career during "off" hours.

The problem from an official standpoint was that Mumia, although plainly marginalized in many respects, had polished both his investigative skills and his mode of delivery to a brilliance that tended to transcend such constraints. The "voice of the voiceless," he'd come to be known, had acquired a substantial and growing audience in and around Philadelphia despite the best efforts of the "responsible" media to trivialize or discredit him.[22] By 1981, even the establishmentarian

Philadelphia Magazine was compelled to describe him as one of its "People to Watch" because of his "eloquent, often passionate, and always insightful interviews [which] bring a special dimension to radio reporting."[23]

The MOVE Connection

Things had already begun to come to a head several years earlier, with the escalating police harassment of MOVE, a small but highly motivated and cohesive collective of Afroamericans in the Powelton Village section of West Philadelphia.[24] Although Mumia was not then and never became a MOVE member, the group's militantly-asserted self-determination and strategy for attaining black self-sufficiency appealed to his own Panther-forged, sensibilities. He therefore devoted considerable airtime to countering anti-MOVE propaganda put forth by the Rizzo administration -- the former police commissioner had become mayor in 1972 -- by offering accurate explanations of what the organization's goals and plans for achieving them were.

At the same time, he steadily exposed the astonishing array of illegalities embodied in the regime's own stance and tactics, highlighting the pattern of beatings, pretext arrests, inflated charges and denial of due process to which MOVE targets were subjected.[25] In March 1976, he led the way in focusing public attention on the fact that the skull of a three-week-old baby, Life Africa, had been crushed during a police onslaught in which her parents, Jerry and Janine Africa, were severely beaten.[26] Then, during the spring and summer of 1978, when the police launched an intensive campaign to force MOVE out of its 33rd Street headquarters-residence because of supposed housing code violations, Mumia was among the first to reveal that the warrants they were using violated Rule 1100 of Pennsylvania Criminal Procedures.

Finally, in the early morning of August 8, well over a hundred heavily-armed police stormed the MOVE facility, which had been under outright siege since April 16, and in which there were eleven young children as well as twelve adults.[28] When the MOVE members took refuge in the building's basement, fire department water cannons were used to flush them out. To top things off, a number of police, for reasons which remain mysterious, decided to engage in a "mad minute" exercise, wildly firing their weapons despite the fact that they were in positions directly opposite one another.[29] As the smoke cleared, they realized they'd killed one of their own; Officer James Ramp lay dead, a single high-powered bullet having entered the back of his head at a downward angle, Six others, three policemen and three firemen, were also wounded.[30]

In the following frenzy of police violence, MOVE captives were badly beaten, Delbert Africa most savagely of all.[31] They were then whisked away to be booked on charges of murdering Officer Ramp while the police swiftly bulldozed the crime scene, destroying all evidence of what had transpired.[32] At a City Hall press conference the same afternoon, a tableful of weapons was offered as "proof" that the accused had fired on their attackers. A typed police report was also handed out falsely asserting that Ramp had been killed by a bullet which struck him frontally (that is, by a weapon fired from the MOVE position).[33]

During the several months of the ensuing December 1979 trial, Mumia was again at the forefront, laying bare glaring flaws in the state's case. His listeners were informed that:

- none of the weapons allegedly recovered from the 33rd Street basement bore the fingerprint of a single MOVE member
- there was no laboratory evidence that any of the weapons, including the supposed murder weapon, had been fired, and
- paraffin tests conducted on each of the accused immediately after their arrests had been negative (indicating that none had fired a weapon)

Most importantly, the angle of the shot which killed Officer Ramp made it a sheer impossibility that it had been fired from MOVE's subterranean refuge.[34] Mumia also revealed on the air that prosecutor William Knaur had altered official autopsy findings when presenting them to the jury, as a means of concealing this discrepancy.[35]

As a result, when the "MOVE Nine" were nonetheless convicted and sentenced 100 years imprisonment apiece in May 1980, there was a groundswell of community outrage which might otherwise have been lacking.[36] This was reinforced the following evening when the presiding judge, Edwin Malmed, appeared on a local radio talk show during which he evidently anticipated receiving an uninterrupted stream of congratulatory phone calls from an admiring public. Instead, he was confronted by Mumia, who had called in to demand a straight answer on the question of who'd actually killed James Ramp. "I have no idea," confessed the flustered jurist.[37]

While all this was going on, the FBI -- which, it turned out, had been involved all along in this "purely local matter" -- was doing its part, tracking down MOVE members who'd been nowhere near Philadelphia on August 8, 1978.[38] In May 1981, almost exactly a year after the sentencing of the MOVE Nine, the Bureau struck, arresting organizational founder John Africa and eight others who'd been living quietly in Rochester, New York. While agents claimed at the time that they'd merely been serving fugitive warrants issued by the State of Pennsylvania, two of those arrested -- John and Alfonso Africa -- were shortly arraigned on federal weapons, explosives and conspiracy charges. This time, however, there was a decidedly different outcome as the defendants, who had elected to represent themselves at trial, were acquitted on all counts.[39]

The general public, it seemed, had become well acquainted during the earlier trial with the sorts of evidentiary manipulation the state employed to obtain convictions against MOVE defendants. Hence, the jury had turned a very skeptical eye on what the federal attorney prosecuting John and Alfonso described as his "strongest case ever."[40] A major reason for this was the MOVE prosecutions' coverage uniquely delivered by Mumia Abu-Jamal. With additional MOVE trials scheduled, appeals by the MOVE Nine in process, and more anti-MOVE operations on the drawing board, it is impossible to avoid the conclusion that the authorities considered eliminating Mumia's reportage an urgent priority.

Neutralization

Opportunity knocked for the state a little before 4 am the morning of December 9, 1981, when, while driving his cab, Mumia noticed a Volkswagen belonging to his brother, Billy Cook, pulled over by police near the comer of Locust and 13th Street. Leaving his own vehicle in a nearby parking lot, Mumia began walking toward the scene, breaking into a run as he saw a police officer begin beating his brother with a flashlight. Moments later, he was sitting on the curb in a pool of his own blood, a police bullet in his chest. A few feet away lay a mortally wounded cop, Daniel Faulkner, who would die at Jefferson University Hospital approximately one hour later. Arrested on the spot for shooting Faulkner, Mumia was taken to the same hospital, kicked and beaten by police before undergoing intensive surgery, then charged with the officer's murder.[41] Billy Cook, meantime, had fled and gone into hiding from which he's never really emerged.[42]

Within 48 hours, the *Philadelphia Daily News* was showcasing tips from police sources that ballistic tests had tied a weapon belonging to Mumia -- a registered handgun he had been licensed to carry in his cab after suffering an armed robbery -- to the bullet which killed Faulkner.[43] For more than a week, while flags throughout the city were flown at half mast, there was saturation coverage of the victim's funeral, his widow's circumstances, and sensationalized profiles of Mumia's political background.[44] On January 9, 1982, the *News* headlined another police leak that Mumia had confessed to the shooting while in the emergency room awaiting surgery on December 9.[45]

So it went for several months, while the accused recovered from his near-fatal wound and the district attorney availed himself of all but unlimited resources in preparing for a summer trial.[46] On the defense side of the coin things were a bit different. Mumia, confined to jail, had elected to defend himself. Not only were his requests for legal materials and the use of a phone routinely denied, but the judge assigned was Albert F. Sabo. Sabo, a former cop actively involved with the Fraternal Order of Police, National Sheriff's Association and Association of Police Chiefs of Southeastern Pennsylvania, allowed him a paltry $1,100 with which to hire investigators, conduct lab tests and the like.[47]

Such patent bias was only a precursor of how Judge Sabo would conduct the trial itself. At the outset, although a poll of the 80-person jury pool indicated that all but seven potential jurors were well versed in the negative publicity surrounding Mumia, the court refused to issue a questionnaire or allow the defendant to query them in depth as to any prejudice which might have resulted.[48] Even when a potential juror, Edward Courchain, openly admitted during *voir dire* that he doubted he could be fair, Sabo first denied a motion that he be excused for cause and then rejected Mumia's attempt to exclude him by peremptory challenge (Courchain was seated as an alternate).

At the same time the prosecution exercises peremptory challenges to eliminate eleven potential black jurors, nearly three quarters of the African Americans in the pool, apparently on the basis of race alone.[50] When Mumia protested this systematic

violation of procedure, and repeatedly attempted to introduce questions concerning the effects of pretrial publicity, the judge ruled him "disruptive" and ordered his replacement by Anthony Jackson, an inexperienced attorney who had repeatedly stated his desire not to be involved.[51] When Mumia refused to relinquish his right to self-representation, Jackson seconding his position, Sabo took over *voir dire* himself.[52]

The result was a jury composed of three blacks and nine whites, four more whites serving as alternates. As well as the admittedly biased Courchain, the group included one Mrs. Kleiner, married to a police officer, and Domenic Durso, who regarded a police officer shot and disabled in the line of duty as among his best friends.[53] At least three of the whites, including George Ewalt, the jury foreman, were later shown to have met as a bloc separate from the blacks throughout the trial, discussing ways and means of engineering a guilty verdict.[54] Of the three African American jurors, one, Mrs. Jeannie Dawley, was arbitrarily removed by judge Sabo during the trial, and replaced by Robert Courchain.[55]

As a "solution" to the question of defense counsel, the judge simply found Jackson in contempt and sentenced him to six months incarceration, only to be suspended if the attorney maintained at least an appearance of accepting the role imposed upon him.[56] He summarily denied a motion to allow the defense time to prepare and a subsequent motion to allow time to locate a key witness whose testimony might have rebutted the prosecution's contention that Mumia had confessed to shooting Faulkner.[57] With that, Jackson basically quit in place, failing to prepare for cross examination, enter appropriate objections or even prepare his own witnesses before putting them on the stand. By his own account, he "never considered the available tactical approaches" to the penalty phase of the trial, nor bothered to so much as brush up on the relevant body of law. "No strategic or tactical reasons governed my actions in not preparing," he admitted.[58]

In any event, after the third day of the trial, whenever Mumia asserted his right to self-representation -- as he did with increasing frequency, pointing out repeatedly that it was *his* life on the line, not Anthony Jackson's -- Sabo simply ordered him removed from the courtroom.[59] No provision was made to allow him to monitor the proceedings from his holding cell. He was thus tried largely in absentia.[60]

To cap it all off, in its closing argument the prosecution was allowed not only to cite evidence which had never been introduced during the trial, but to dwell at length upon its construction of Mumia's political history and ideology. In this steeply slanted version of reality, his membership in the Black Panther Party, his teenage use of the Panther slogan "All Power to the People!" and his quoting Chairman Mao's "political power grows from the barrel of a gun" during a 1970 newspaper interview added up to "proof that he'd been "waiting twelve years for a chance to kill a cop."[61]

Under the circumstances, a conviction was inevitable. Equally unsurprising was the death sentence handed down by the court on July 3, 1982. judge Albert Sabo is, after all, called "a prosecutor in robes," "the hanging judge" and "a defendants worst nightmare" for good reason.[62] Having condemned 31 individuals to die in the course

of his career -- a truly astonishing one-fifth of the total death row population in Pennsylvania as of 1992 -- he leads his profession in imposing capital punishment (indeed, his record more than doubles that of the next closest contender). Instructively, upwards of ninety percent of those he's consigned to forfeit their lives have been black.[63]

On the Matter of Appeals

While appeals of death sentences are mandatory under Pennsylvania and United States law, they are often carried out in perfunctory fashion.[64] Such was the case with Mumia's appellate process. The initial phase was consumed by post-trial motions and Anthony Jackson's manuverings to extricate himself from his unwanted role as Mumia's "attorney of record."[65] Once Judge Sabo had completed his *pro forma* denials, confirmed the death sentence and released Jackson on May 25, 1983, the second phase began. To handle the required procedures, Sabo assigned a new attorney, Marilyn Gelb, who, if anything, displayed an even more remarkable lack of enthusiasm for the job than had her predecessor.

While Ms. Gelb did eventually make a filing, it consisted merely of a typed version of a draft -- or, more accurately, notes -- Mumia himself had prepared on the racial bias evident in jury selection and the inappropriate nature of the prosecution's closing argument. Despite the plethora of reversible errors revealed by even a cursory review of the trial record, she made no effort to expand upon her client's limited foray, not even attaching a statement of facts to Mumia's motion. This was undoubtedly because, by her own admission, Gelb was so disinterested in the case that she failed to order transcripts of several important pretrial hearings or read the main trial transcript automatically provided by the court.[66]

'Needless to say, this "direct appeal," a travesty thin to the point of anorexia, failed when it finally reached the Pennsylvania Supreme Court in 1989.[67] A petition for a US Supreme Court review was denied in early 1990.[68] At this point, Gelb -- apparently considering her "duty" done -- undertook her only well-argued and successful initiative in the matter, requesting and receiving judicial permission to withdraw from further participation. With the assistance of Rachel Wolkenstein, an attorney with the Partisan Defense Committee, Mumia then filed a petition for rehearing based upon the Supreme Courts previous reviews of cases involving similar issues.[69] This, too, was rejected, as was a subsequent motion requesting permission to resubmit in the same venue.[70]

As the clock ticked, Wolkenstein and others began to assemble a bona fide legal defense effort for the first time, convincing noted New York radical attorney Leonard Weinglass to serve as lead counsel.[71] Retaining the services of skilled investigators, a ballistics expert, and a forensic pathologist, they compiled in excruciating detail a catalogue of nineteen separate grounds, most with several subparts, on which the 1982 conviction should be overturned. Thus, when Governor Thomas Ridge signed Mumia's death warrant on June 1, 1995, triggering the basis for an appeal for collateral relief, a truly comprehensive document, framed in proper legal terms and format was available for immediate submission.[72]

Since the date on which Mumia was to be lethally injected was August 17, the first order of business was obviously an emergency effort to stay the execution. This was problematic for judicial procedure stipulates that whenever she or he remains available, the original trial judge makes the initial review of collateral appeals. Judge Sabo, by then in his late seventies, but indicating enthusiasm for coming out of semiretirement to hear the matter, was therefore scheduled to preside.[73] Although a motion for recusal was duly submitted to the Pennsylvania Court of Common Pleas, protocol also allowed Sabo himself to review it and decide whether he was subject to bias against the appellant and/or other conflicts of interest sufficient in magnitude to warrant his stepping aside.[74] The outcome, of course, was predictable.

While Sabo did in fact eventually issue an indefinite stay of execution on August 7, 1995, just ten days before Mumia was scheduled to die, he used the intervening hearings to great advantage.[75] Piece by piece, he entered rulings declaring that all "new" evidence of judicial, prosecutorial and police misconduct -- including the suppression of plainly exculpatory material, the systematic intimidation of witnesses and coercion of false testimony from several, and firm indications that at least two police officers perjured themselves at trial -- was "inadmissible." Baldly ignoring that his own denial of investigative funds to the defense prevented its being brought forth in the first place, he declared that such evidence should have been introduced either at trial or on direct appeal. In effect, he constrained Mumia's collateral appeal, at least temporarily, to the same absurdly limited arguments which had doomed his earlier appeals.

This puts the appeals team in the position of having to slog through an unending mire of motions and oral presentations, each necessary to restore elements Sabo removed. They have obtained mixed results to date, rendering the likelihood of success when the case returns to the Pennsylvania Supreme Court in 1998 tenuous at best. One hopeful sign was the recent move by the state judiciary to remove Albert Sabo from the bench altogether, placing him on compulsory full retirement as of December 31, 1997. On the other hand, Pennsylvania's reigning Neanderthal, Tom Ridge has openly vowed to sign a fresh death warrant the moment retrial is denied.[78] That leaves the federal courts, now bound by Bill Clinton's 1996 Antiterrorism and Effective Death Penalty Act.[79]

Crimes of Silence

If there were ever any doubt as to what neutralizing Mumia Abu-Jamal was intended to achieve, it was abundantly demonstrated on May 13, 1985, when the Philadelphia police, acting with the FBI and the Bureau of Alcohol, Tobacco and Firearms (BATF), finally carried out their plans to eradicate MOVE, once and for all. Citing possible federal weapons violations, child abuse and other offenses, the "joint task force" first surrounded the organization's new headquarters-residence at 6221 Osage Avenue, in the Cobbs Creek section of West Philadelphia. By the evening of May 12 they finished evacuating the neighbors.[80]

The following morning at 6 am they launched an all-out assault, firing more than 10,000 rounds of military ammunition into the house during the first hour-and-a-

half.[81] Meanwhile, demolition teams placed explosive charges to breach the building's walls. When this failed, a state police helicopter dropped a large bomb on the roof, setting off a raging fire which consumed not only the MOVE house, but the entire block of sixty homes.[82] Eleven human beings -- six adults and five children -- were burned to death. Only one adult MOVE member, Ramona Africa, escaped the inferno. She was carrying a single child, Birdy Africa.[83]

All during the run-up to the Osage Avenue holocaust, the Philadelphia media had focused exclusively on the official version of what was happening, showcasing the "plight" of neighbors caught up in the confrontaiation in "human interest stories" rather than interviewing MOVE representatives to attain some semblance of balanced reportage. No effort at all was made to remind the public of the long-evolving context of MOVE relations with the police. Especially in view of the event in August 1978, the organization had legitimate reasons to be "paranoid." Nor was there coverage of the fact that MOVE had offered to peacefully remove itself from the Osage Avenue house in exchange for an official commitment to investigate the MOVE Nine and other convictions.[84]

The same pattern prevailed in the aftermath. Although early reports mentioned evidence that MOVE members attempting to escape the burning house had been repeatedly fired upon by police and driven back into the flames -- several firemen and policeman recounted hearing intense firing of automatic weapons at three separate intervals after the bomb was dropped -- such stories quickly dropped from sight.[85] Reporters trotted along dutifully when Police Commissioner George Sambor, who had been on the scene, first confirmed that police had fired, then, after conferring with aides, reversed himself by insisting they hadn't.[86] All shots fired after the bombing, it was claimed thereafter, had been fired by MOVE (who possessed no automatic weapons); all bullet wounds found in MOVE corpses were either inflicted before the fact, or evidence of "suicide."[87]

While Mumia's brand of journalism would obviously have picked the city's transparent tales to pieces before, during and after the atrocity, his absence was felt perhaps even more strongly in its wake. Little was made in the media, for example, of the facts that police officer William Cline, who had assembled the bomb, and Lt. Frank Powell, who had actually dropped it, were both subpoenaed to testify for the defense at Ramona Africa's ensuing trial but refused, citing their Fifth Amendment rights against self-incrimination.[88] Similarly lackluster was the response of Philadelphia's Fourth Estate in 1988 when, having gone through the motions of impaneling a grand jury to investigate the eleven homicides and the massive destruction of property, District Attorney Ron Castille recommended that no indictments be filed.[89]

It is true that in the interim Mayor Wilson Goode appointed a special commission to investigate the horrors of May 15, and that in March 1986 it published a report sharply critical of both the police and city officials (including Goode).[90] Without Mumia's sustained analysis and commentary, the extensive recommendations for changes in policy and procedure the report recommended languished and were quickly forgotten. To date, more than a decade later, not one of what the commission

advanced as "crucial" modifications in the conduct of Philadelphia's law enforcement has been implemented.

Meanwhile, the commission's recommendations are not all that languishes. Cut off 22 hours-per-day in the isolation of his cage on Huntingdon Prison's death row, indigent and denied the use of a typewriter by authorities, Mumia was abandoned by his former colleagues in the Black Journalists Association and largely ignored throughout the '80s, even by the radical left.[91] Whatever he may have been able to scribble with a pencil on the scraps of paper available to him must have been for purpose of retaining his sanity because there was simply no available outlet through which he could hope to publish it, much less use it as a basis for radio broadcasts.

It was not until Rachel Wolkenstein began to provide him his first genuine legal representation in 1990 that things began to change. Almost immediately, he published a brief but brilliant essay, "Things Go Round," and a poem, "For Sister Mona Africa" in an anthology of prison literature.[92] This was followed in short order by publication of two more essays: "B-block days and nightmares," in an April 1990 issue of *The Nation*, and "Teetering on the brink between life and death," in the January 1991 edition of the *Yale Law Joumal*. The pieces, comparable in bite and eloquence to the best material produced by such acclaimed prison writers as Eldridge Cleaver and George Jackson a generation earlier, demonstrated beyond any shadow of doubt that Mumia had lost none of his communicative abilities.[93] On the contrary, they appeared to have been greatly deepened and matured by his death row experience.

In 1994, the quality of Mumia's material and his background in radio led National Public Radio (NPR) to commission a series of short radio commentaries to run weekly as part of the network's "All Things Considered" programming. Several segments were quickly prepared and committed to tape, while NPR heavily promoted the inaugural date. The day before the first program was to air, however, NPR -- under extreme pressure from the Fraternal Order of Police and congressional threats to cut its funding -- abruptly canceled the arrangement. Worse, the network -- now referred to as "National Police Radio" in progressive circles -- has refused to return the already completed tapes, filing them away in a vault and initiating a policy all but precluding mention of Mumia's name in its other programming.[95]

To partially circumvent NPR's craven capitulation, an arrangement was struck with the Addison-Wesley publishing house to produce a book, *Live From Death Row*, containing 41 of Mumia's essays, the *Yale Law Joumal* and *Nation* pieces, the NPR scripts, and a number of other items. When the volume was announced in the spring of 1995, the publisher was immediately subjected to a concerted campaign to block publication, including threats of a nationwide boycott of its other tides by the Fraternal Order of Police. The Order also joined Officer Faulkner's widow, Maureen, in suing to prevent Mumia from "profiting" from the publication (royalties had been assigned to his legal defense), while prison authorities wrote him up for the "misconduct" of having written a book.[97] Governor Ridge, of course, followed up by signing his death warrant.[98]

In response, Plough Publishing House published a book of Mumia's poems, *Death Blossoms*, in 1996. This was followed, later in the year, by the Pacifica News

Network's picking up NPR's idea of broadcast commentaries. Titled "Live from Death Row," the segments were slated to run twice-weekly, as part of Pacifica's "Democracy Now!" program. The first commentary aired on the morning of February 12, 1997, and all seemed well. Two weeks later, however, just moments before the show was to go on, all twelve Pennsylvania radio stations owned by Temple University suddenly pulled the plug, running an impromptu jazz program in the hour-and-a-half slot assigned to "Democracy Now!" Immediately thereafter, citing the NPR "precedent," University President Peter Liacouras -- a self-styled "proponent of free speech" who has championed the right of Holocaust deniers and other nazis to participate in public fora -- canceled its contract with Pacifica altogether.[99]

Likely, this will be the last such opportunity, both because the once-radical Pacifica is itself rapidly undergoing a shift towards NPR-style "professionalism,"[100] and because in "November [1996], just after the commentaries of Mumia were recorded, the Pennsylvania Department of Corrections ruled that no prisoner could be videotaped, audiotaped, or photographed again."[101] As the catalyst of all this has observed of the " Mumia Rule," as it is now widely called: "They want me to die alone -- silently. So much do they fear my words that they want me muzzled as they prepare to garrote me."[102]

In this, his circumstance is more emblematic than unique. At about the same time the new rule went into effect in Pennsylvania, "California banned all face-to-face interviews [and] the state senate in Virginia killed a bill ensuring that the Department of Corrections allow face-to-face encounters. The prison chief there said, 'No, it should be up to us. We decide on a case by case basis whether a journalist should be able to talk to a prisoner.' In the last year they haven't granted one interview... Illinois and Indiana are [also] among the states that are increasingly restricting journalist access to prisons."[103]

The more than 1.6 million prisoners directly affected by such rules give the US the highest proportion of its citizens behind bars of any in the world as we prepare to enter the new millennium. With projections on all fronts that the number will swell by something on the order of fifty percent over the next few years, the ugly skews in social policy and priority which have led to the present situation stand to become only more pronounced.[104] As more and more people are compelled by worsening circumstances to speak and act in ways designed to change the direction in which things are moving, the state's need to silence them -- all while imposing an ever more detailed and comprehensive matrix of regulation and repression upon the balance of society -- can only increase.[105] The logic and dynamics of the police-penal state are writ exceedingly large in the "land of the free."

The Tribunal

While little of what this article presents has ever been considered by an appeals court other than Sabo's own 1995 travesty, prosecutor Michael Warren methodically placed it before the December 6 tribunal. Warren opened with the raft of constitutional and procedural issues afflicting Mumia's original trial, as well as the glaring incompetence of counsel which precluded any possibility of success either at trial or

on direct appeal. He then moved directly to the more sinister question, so carefully expunged by Sabo from the pending appeal in Pennsylvania, of whether Mumia hadn't been the victim of an outright frame-up. Here, the evidence was simply overwhelming.

To begin with, Warren observed, there is the matter of the trial testimony provided by police ballistics experts, supposedly "linking" Mumia's gun to the bullet which killed Officer Faulkner. In actuality, the medical examiner's report on Faulkner concluded he had been killed by a .44 magnum slug. Mumia's weapon was a .38 caliber, from which the fatal bullet could not have been fired.[106] Indeed, police "examination" of the alleged murder weapon had not extended even to the rudimentary level of sniffing the barrel to determine whether it had been recently discharged. Nor were tests done on Mumia's hands to determine whether he had fired a gun. The judge's refusal to allot funds for the defense to retain a competent investigator and its own ballistics consultant, however, combined with Anthony Jackson's failure to prepare for cross-examination, protected this blatant cluster of official falsehoods from challenge at trial.[107]

Similarly, Sabo's refusal to underwrite a trained defense pathologist and Jackson's ineptitude let the prosecution advance a second Big Lie in presenting physical evidence "proving" Mumia's guilt. The state's "theory" of the case -- which it claimed was confirmed by bullet trajectories through the bodies of victim and victimizer alike -- was that Mumia had run up on the sidewalk behind Faulkner and shot him in the back. Then, according to prosecution witnesses, the officer responded even as he fell to the pavement, twisting about and shooting Mumia in the chest.[108] However, Warren pointed out, a subsequent analysis by an independent pathologist, Dr. John A. Hayes, Jr., demonstrates that while the angle of Faulkner's wound was consistent with such a scenario, Mumia's most emphatically was not.[109]

Had Mumia been shot by the officer as the latter fell, Dr. Hayes points out, the angle at which the bullet traveled through his body would have been upward. Instead, Faulkner's bullet, which entered Mumia's chest, then traveled *downward*, lodging in his liver. So steep was the angle of this wound that it militates strongly against the idea that Mumia was even on the sidewalk when he was shot.[110] Rather, the appearance is that he was still in the street, several inches below curb level when hit. This, in turn, suggests that Officer Faulkner, hearing the sound of running footsteps behind him, whirled, saw an unidentified black man running in his direction, and more or less reflexively gunned him down.[111] The officer, having just shot Mumia, was then himself shot from behind by an assailant or assailants who fled.

As Warren observed, this is consistent with the testimony of defense witness Dessie Hightower who recounted having seen two men running from the scene immediately after the shooting (Hightower passed a police polygraph).[112] A second witness, Robert Chobert, initially reported having seen the shooter fleeing eastward along Locust, toward Camac Street. Under what can only be described as "strong pressure" from police, he changed his story to say he believed Mumia to be the shooter.[113] A third witness, Debbie Kordansky, also reported observing at least one man running eastward along Locust immediately after hearing the shots, but she refused to testify

for the defense.[114]

Yet a fourth witness, Veronica Jones, a prostitute, originally stated that she'd observed two men fleeing the scene, but, when called as a defense witness denied having made such a statement.[115] After the trial, she dropped out of sight, not reappearing until 1997. She then testified at a special hearing before Judge Sabo, despite blatant efforts by the court to intimidate her into continued silence, that her trial testimony -- or lack of it -- had been coerced by police. Offered either the "carrot" of receiving immunity from arrest while plying her trade -- such arrangements, often for profit, were found to be endemic among Philadelphia police at the time -- or the "stick" of doing a lengthy stint in prison, she'd opted to cooperate.[116]

As a witness who'd actually observed the shooting, Robert Harkins described Faulkner's assailant as being someone other than Mumia. When he later declined to "cooperate" with police by agreeing to provide a (mis)identificaton, he was told he would not be called to testify and that he "should not talk to" representatives of the defense.[117] A second eyewitness, William Singletary, also reported that the shooter was not Mumia, but rather a "third black male" who, along with "the second," then fled eastward along Locust. He was then "threatened, intimidated and otherwise coerced" into signing a statement indicating he'd seen nothing at all. This last statement was the only indication provided by prosecutors to the defense that Singletary even existed.[118]

The key civilian witness for the prosecution was prostitute Cynthia White, who alone testified to having observed Mumia approach Officer Faulkner with a gun in his hand.[119] The consensus among *all* other witnesses, however, is that White was nowhere near the scene. At trial, Veronica Jones testified out of the jury presence that police had told her White had also been subjected to the same carrot and stick routine as she, and that White had agreed to accept their "protection" in exchange for entering false testimony against Mumia.[120] While Sabo ruled this evidence inadmissable, Cynthia White had a record of 38 arrests for prostitution and was facing three new charges at the time she testified. She was prosecuted on none of them. Instead, her photo was pinned to her home precinct bulletin board with instructions to "call homicide" if she was arrested again.[121]

Useful as White's circumstantial testimony was to the state the real capstone came with the back-to-back testimonies of Officer Garry Bell, Faulkner's partner and "best friend," and Priscilla Durham, a security guard at Jefferson University Hospital who acknowledged having been "pretty friendly" with the dead cop. On the stand, both witnesses stated that Mumia had been struggling violently and had "confessed" during the approximately ten minutes he waited for treatment at the hospital by "hollering" that he'd "shot the motherfucker" and hoped "the motherfucker dies."[122] This must have been the clincher, if one were needed, for a jury carefully selected on the basis of its predisposition to convict.

The problem is that no such statement seems actually to have been made. Dr. Regina Cudemo, a defense witness who was present during most of the period, described

Mumia as having been very weak from loss of blood -- it had been approximately half an hour since he'd been shot, and he was certainly in no condition to struggle -- and denied hearing him make any sound other than a low moan.[123] Similarly, Dr. Anthony V. Coletta, who was present immediately after Dr. Cudemo. and who testified as a witness for the prosecution, described Mumia as being "weak ... on the verge of fainting" and denied hearing him say anything at all.[124] More to the point, perhaps, is that neither Bell nor Durham made any mention of a confession until approximately three months later.[125]

Most compellingly, Officer Gary Wakshul, the only cop who remained with Mumia from his arrival at the hospital until he was wheeled into surgery, wrote in his incident report immediately thereafter that "during this time the negro male made no statements."[126] The defense intended to call Wakshul. When the time arrived, however, Attorney Jackson was informed that the officer had been placed on vacation leave and that his whereabouts were "unknown." Judge Sabo then refused to grant Jackson's motion for a delay in the trial until such time as the crucial witness could be located and subpoenaed.[127] Wakshul did not surface until after the trial was over, and has subsequently refused to make any comment.

Finally, to round out his *prima facie* case that Mumia is the victim of much worse than a simple denial of his right to mount an adequate defence, Warren introduced expert witnesses on the matter of police counterintelligence operations. Salient among these was Geronimo ji Jaga Pratt, former head of the Black Panther Party's Los Angeles Chapter, recently released after 27 years imprisonment.[128] In June 1997, Pratt's conviction for the 1968 "Tennis Court Murder" in Santa Monica, California, was overturned when it was demonstrated that Julius C. Butler, the prosecution's key witness against him, had systematically perjured himself at trial. Among other things,. Butler, who denied working for the police and FBI when he in fact worked for both, testified that Pratt had "confessed" the crime to him.[129]

Pratt and counterintelligence researcher Ward Churchill also pointed to other cases such as that of former New York Panther Dhoruba Bin Wahad, whose 1971 conviction for attempting to murder police officers was overturned in 1990 when it was conclusively demonstrated that the police had presented fabricated evidence against him at trial, and that the FBI had collaborated by suppressing that and other facts.[130] Churchill then went on to show that a similar pattern of collaboration between the FBI and Philadelphia police was evident since at least as early as 1967, when the Bureau's local COINTELPRO section oversaw a police campaign to neutralize the city's Revolutionary Action Movement (RAM) chapter by engaging in relentless pretext arrests and malicious prosecutions.[131]

Concerning Mumia personally, FBI documents released under the Freedom of Information Act reveal that he was deemed a high-priority target for such treatment, beginning in 1969, and that the Bureau actively considered attempting to frame him for a double murder even years after he left the Black Panther Party.[132] The material also reveals, conclusively, that the FBI never 'lost interest" in Mumia Abu-Jamal. The most recently dated document accrues from February 1991, and recounts how Mumia had been visited in prison by German journalist Heike Klaffner, along with WBAI

radio's Sally O'Brien.[133]

In his summation, Warren called upon the tribunal to indict the Philadelphia Police Department and Mayor Ed Rendell, Judge Albert Sabo and the Pennsylvania Supreme Court, the Federal Bureau of Investigation and its current overseer, Attorney General of the United States Janet Reno, as well as Governor Tom Ridge and the Fraternal Order of Police, on a variety of violations of international human rights law because of their respective involvements in the case of Mumia Abu-Jamal.[134] Approximately two hours later, the panel returned its unanimous verdict that violations had indeed occurred, and are continuing to occur, with respect to the United Nations Universal Declaration of Human Rights (1948), the International Convention on Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Civil and Political Rights (1966) and the International Convention on the Suppression of Torture, Inhuman and Degrading Treatment or Punishment (1984), all instruments the United States has ratified.[135]

Moving Forward

Organizing constructive social change is always a matter of transforming the consciousness of the oppressed in ways that let them act in their own self-interest. This is not merely a matter of "educating" the subaltern masses on the nature of their oppression; such things am already well-known, by the oppressed best of all.[136] At first the task is far more psychological than intellectual; to create a sense among the disempowered that empowerment is possible, that there is more to gain than to lose by confronting power, that we can *win*, overcoming our oppressors ability to maintain the structure of our oppression.[137]

The psychological struggle consists primarily of symbols. Conscious pursuers of liberation exemplify the possibility of attaining a positive alternative to the status quo. "Those in power have a diarnetrically-opposed goal; to show "conclusively" that such alternatives are unrealizable "pipe dreams," whose costs far outweigh their prospective rewards. Business-as-usual is cast as "natural and inevitable," if not this best of all possible worlds, then at least the best world possible.

In this fashion, the sprawling U.S. police-penal establishment message imparts despair to the oppressed most efficiently through its hundred plus political prisoners and prisoners of war.[139] These are the ones the oppressor deems most committed to open resistance, most gifted in rallying others to resist. The status quo quiet rightly and naturally sees them as the greatest threat to its stability. Just as naturally, they embody the best and brightest promise of liberation to the oppressed. That such people's singular journeys should be seen to uniformly end in dreary cages administered by their enemies speaks volumes, rather entire libraries of discouragement and despair to those who would pursue freedom.[140]

Amongst such bright promises, Mumia Abu-Jamal stands at the very forefront, the more so because he alone has been singled out among his political prisoner colleagues to suffer death. The oppressor has chosen Mumia as the preeminent symbol of "the cost, consequence and sheer futility" of meaningful resistance. If he is

executed, if he remains on death row, or simply remains in prison, the state's Symbolism will prevail.

But equally, if we free Mumia, prevent his officially ordained murder, put this 'Black Messiah" back on the streets where he belongs, the symbolism will be reversed. The oppressors' ability to arbitrarily punish those who struggle against them will have been denied, transcended, overcome in one of their most valuable targets. Such a victory, however "narrow," translates into a tangible consciousness of force among those systematically conditioned to perceive themselves as powerless. That psychological sea change could unleash potential for liberation in almost limitless ways.[141] An integral part of the broader campaign for the release of all political prisoners and prisoners of war, that is the true import of the International Tribunal on the Case of Mumia Abu-Jamal.

endnotes

1 The 23 tribunal members in attendance were Francése Aranu (Spain), Christoph Arnold. Barbari Nimri Aziz, John Black, Dennis Brutus (South Africa), Gilma Camargo, Hilé Chinoseu, Asia Coney, Myriam Falco-Mairat (France), Herman Ferguson, Marita Golden. Rev. Cecil Gray, Martha Grevatt, Mattie Humphrey, John Judge, Yuri Kochiyama Pierre Leroy (Haiti), Jim Lester, Gamal Nkruma (Egypt). Ulf Panzer (Germany). Queen Ivory, Father Paul Washington and Julia Wright. In attendance as international observers were Benoit Bechet (Guyana) and Gilbert Pago (Martinique). The tribunal itself was originally meant to be composed of 24 members. Conspicuously absent, however, was Dennis J. Banks, an official of the "National American Indian Movement. Inc.," who opted out at the last minute because of expressed personal and political disagreements with Ward Churchill, scheduled to appear as an expert witness on federal counterintelligence techniques. Churchill, a *Dark Night field notes* editorial board member, is also a key figure in the International Confederation of Autonomous AM Chapters, which has challenged recent attempts by Banks' group to assert dominance over the movement for indigenous rights. Although, as tribunal organizers pointed out, such disputes have absolutely no bearing on the situation of Mumia Abu-Jamal, Banks followed what seems to have emerged as a firm policy of National AIM: refusing to join in and frequently attempting the outright sabotage of events in which it is not allowed to exercise veto power over the roster of native participants.

2 59 Stat. 103 1. T.S. No. 993. 3 Bevans 1153. Y.B.U.N. 1052. June 26, 1945 (entered into force Oct. 24, 1945).

3 U.N.GA Res. 95(1), U.N. Doc. A/236 (1946), at 1144: Dec. 11, 1946.

4 See, eg., Bertrand Russel, *War Crimes in Vietnam* (New York: Monthly Review Press, 1967); John Duffett, ed., *Against the Crime of Silence: Proceedings of the International War Crimes Tribunal* (New York. Bertrand Russell Peace Foundation, 1968); Russell Tribunal, *Report of the Fourth Russell Tribunal on the Rights of the Indians of the Americas* (Nottingham: Bertrand Russell Foundation. 1980).

5 Richard Falk. *Human Rights and State Sovereignty* (New York: Holmes & Meier, 1981) pp. 200- 1.

6 See, e.g., Luis Nueves Falc6n, ed., *International Tribunal on Human Rights Violations of Political/POW Prisoners in the United States* (Chicago: Editorial El Coqui, 1991); Alejandro Luis Molina. ed., *USA on Trial: The International Tribunal on Indigenous Peoples and Oppressed Nations in the United States* (Chicago: Editorial El Coqui, 1996); Ward Churchill and Sharon H. Venne, eds., *Islands in Captivity: The International Tribunal on the Rights of Indigenous Hawaiians*, 2 vols. (Boston: South End Press, forthcoming).

7 *International Tribunal on the Rights of First Nations* (Toronto: Chiefs of Ontario, 1996).

8 59 Stat. 1031, T.S. No. 993. 3 Bevans 1153, 1976 Y.B.U.N. 1043, June 26, 1945; entered into force Oct. 24, 1945.

9 One example is the establishment of the United Nations Working Group on Indigenous Populations, an ECOSOC subpart reporting to the U.N. Commission on Human Rights. formed in 1981, in the aftermath of the 1979 Russell Tribunal on the Rights of the Indians of the Americas. See Douglas Sanders, "The U.N. Working Group on Indigenous Populations," *Human Rights Quarterly* No. 11, 1989.

10 After conditions there were exposed by both Amnesty International and the 1990 tribunal on political prisoners/prisoners of war, for instance, the federal government's experimental high security unit for women--an underground isolation facility--was quickly "phased out." See Amnesty International, USA, "The High Security Unit Lexington Federal Prison, Kentucky" (AI Index: AMR 51/34/88); Mary O'Melveny, "Portrait of a Political Prison: The Lexington High Security Unit for Women," in Ward Churchill and J.J. Vander Wall, eds., *Cages of Steel: The Politics of Imprisonment in the United States* (Washington, D.C.: Maisonneuve Press, 1992).

11 Such dismissive characterizations are standard fare for officials and media commentators whenever they bother to openly acknowledge that tribunals have rendered verdicts on the legality of various aspects of U.S. policy and are continuing to do so. Behind the scenes, however, the effects can be significant. Consider, for example, the actual rather than public responses of U.S. policymakers to the Russell Tribunal's findings on Vietnam; Paul Joseph, *Cracks in the Empire: State Politics in the Vietnam War* Boston: South End Press, 1981).

12 Jamal was a committed activist at an even earlier age. In 1968, when he was only 14, he was beaten and arrested by Philadelphia police while protesting a campaign speech by openly racist presidential candidate George Wallace; see generally Ward Churchill, "The Wages of COINTELPRO: The Case of Mumia Abu-Jamal," *New Studies on the Left,* Vol. XIV, Nos. 1-2. 1989.

13 Quoted in Leonard Weinglass, *Race for Justice: Mumia Abu-Jamal's Fight Against the Death Penalty* (Monroe, ME: Common Courage Press, 1995) p. 270.

14 Quoted in the *New York Times*, Sep. 8, 1968. Hoover's view was backed up from his own perspective in his contribution to the top secret *Special Report of the Interagency Committee on Intelligence (Ad Hoc)* submitted to President Richard M. Nixon an June 25, 1970 (Bk. 7, Pt. 1: *Summary of Internal Security Threat*); for analysis, see Noam Chomsky, "Introduction," in Cathy Perkus, ed., *COINTELPRO The FBI's Secret War on Political Freedom* (New York: Monad Press, 1975) p. 17.

15 Hoover's memorandum to all field offices, dated Aug. 25, 1967, is reproduced in Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers: Documents from the FBI's Secret Wars Against Dissent in the United States* (Boston: South End Press, 1990) pp. 92-3.

16 Hoover's AIRTEL to all field offices conceming the specter of a 'black messiah,"dated 3/4/68, is reproduced in *The COINTELPRO Papers* at pp. 109-11. The director's preoccupation with preventing the emergence of such a figure within the African American community dated back to the 1920s, when he had been charged with responsibility for neutralizing Marcus Garvey, head of the United Negro Improvement Association (UNIA), the largest and most potent mass orgarization of blacks in American history; Robert A. Hill, "The Foremost Radical of His Race: Marcus Garvey and the Black Scare, 1918-1920," *Prologue*, No. 16, Winter 1984.

17 The "Agitators Index" and related "Rabble Rousers Index" were card file extractions from the more definitive subversives file system initiated by J. Edgar Hoover in 1918 ard expanded steadily thereafter; see generally Richard Gid Powers, *Secrecy and Power: The Life of J. Edgar Hoover* (New York: Free Press, 1987). Such files and corresponding indexes were assigned levels of urgency or priority within the Bureau. A report prepared by the Philadelphia office of the FBI on 12/24/68 inclicates that, "in spite of the subject's age (15 years)," Mumia had already been placed on the Bureau's "Administrative Index" of persons subject to continuous surveillance, and recommended he

be upgraded to the "Security Index" of individuals marked for direct neutralization; reproduced in *Race for Justice* at pp. 215-6.

18 Indicative of Rizzo's sensibility was his pledge to white voters during his successful 1971 bid to become mayor that, if elected, he would be "so tough [he'd] make Attila the Hun look like a faggot by comparison. A bit later, it was judicially established in the case *Rizzo vs. Goode* that under the former's tenure, first as police commissioner and then as mayor, there had been "routine abuse" of even the most elementary rights of black citizens. Although the court dedined to assign criminal culpability to the mayor and his rninions, it ordered the city to prepare and implement a "comprehensive plan" to correct the situation. In the aftermath, fatal shootings of civilians by police declined by 67 percent; Paul Chevigny, *Edge of the Knife: Police Violence in the Americas* (New York: New Press, 1995) pp. 108, 135. Also see S.A. Paolantino, *Frank Rizzo: The Last Big Man in Big City America* (Camino Books, 1993).

19 For a contemporaneous assessment of the campaign against the Panthers, centering upon the FBI-coordinated assassinatims of Illinois Party leaders Fred Hampton and Mark Clark in the predawn hours of December 4, 1969, see Roy Wilkens, Ramsey Clark, et al., *Search and Destroy: A Report by the Commission of Inquiry into the Black Panthers and the Police* (New York: Metropolitan Applied Research Center, 1973). Additional useful information will be obtained in Gene Marine, *The Black Panthers* (New York: New American Library, 1969); Donald Freed, *Agony in New Haven: The Trial of Bobby Seale, Ericka Huggins, and the Black Panther Party* (New York: Simon and Schuster, 1973); and Peter L. Zimroth, *Perversions of Justice: The Prosecution and Acquittal of the Panther 2!* (New York: Viking Press, 1974).

20 *Race for Justice*, p. 270.

21 For a good definitional treatrnent of the term deployed, see Noam Chornsky, "What Makes the Mainstream Media Mainstream," *Z Magazine*, October 1997. Also see Michael Parenti, *Inventing Reality: The Politics of the News Media* (New York: St. Martin's Press, 1993).

22 To provide one example, the *Philadelphia Inquirer* -- even while acknowledging Mumia's "eloquence" and that he was "not afraid to raise his voice about injustice" -- found it expedient to belabor his hairstyle and ideology before characterizing him as a journalistic "gadly" in an article published on Dec. 10, 1981.

23 "81 People to Watch in 1981," *Philadelphia Magazine*, Jan. 1981.

24 The best history of MOVE will be found in its own collectively published *20 Years on the Move*, available through Concerned Citizens in Support of MOVE, P.O.B. 19709, Philadelphia, PA, 19143.

25 As an example of pretext and inflation, consider that when it was determined that there was no illegality involved in MOVE members displaying firearms during the course of a tion conducted on their own property on May 20. 1977, police dropped efforts to charge them with weapons violations. Instead, they were charged with "possession of instruments of crime," despite the facts that the statute used was plainly meant to cover burglary tools and similar devices rather than weapons, and that there was no indication a crime was either committed or intended by the arrestees; *20 Years on the MOVE*, p. 18.

26 The police, who claimed to have been responding in force to a complaint that a "public disturbance" was occurring outside MOVE headquarters, and who had arrested six victims for assaulting *them*, initially, denied not only that a baby had been killed but that anyone had been beaten at all. When it became apparent that several neighborhood residents had witnessed the whole affair, and were prepared to testify as to what had actually happened, charges were quickly dropped against the MOVE members. No police officers were ever charged with murder, however, or assault and battery, false arrest, obstruction of justice, conspiracy to commit same, or any of the other crimes they'd so clearly committed; *20 Years on the Move*, p. 12. The situation in many ways replicated the performance of Chicago police and other officials in the wake of the 1969 Hampton/Clark assassinations; see Ward Churchill and Jim Vander Wall, *Agents of Repression: The FBI's Secret Wars Against the Black*

Panther Party and the American Indian Movement (Boston: South End Press, 1988) pp. 73-6.

27 The fact is that, if the regime's real objective was to cause MOVE to leave Philadelphia, as Rizzo and other officials implied on several occasions, it need have taken no action at all. The organization was at the time energetically pursuing the purchase of a farm in Virginia -- a down payment had already been made --to which it had openly announced its intent to relocate. Rizzo's response was to dispatch representatives to the area to "spread slanderous misinformation among people on adjoining properties by describing MOVE as a group of drug-taking cannibals who would slaughter everyone's cattle." Predictably enough, the deal then fell through, cutting off the possibility of a peaceful resolution to the "crisis." It is thus apparent that the regime was actively pursuing a major confrontation, presumably for the purpose of destroying MOVE altogether; *20 Years on the MOVE*, p. 20. In its major contours, the operation bears a striking resemblance to that conducted by the FBI against the Republic of New Africa in Mississippi a few years earlier; *Agents of Repression*, pp. 60-1.

28 The siege, which included shutting off water mains and an effort to starve the occupants into surrender, had begun to attract considerable international attention. Since this was proving quite embarrassing to the Carter administration in Washington, at the time adopting a rather sanctimonious posture on human rights abroad, there is a strong probability that Rizzo was under pressure to end the spectacle. In keeping with his "tough guy" image, he did so by ordering a military-style assault; *20 Years on the MOVE*. pp. 22-6.

29 Several witnesses later testified that an initial shot, which may have provoked the sudden outburst of gunfire, came from behind police lines (that is, in the opposite direction from that in which a shot from a MOVE member would have come); *20 Years on the MOVE*. p. 32.

30 Michael Boyette with Randi Boyette, *"Let It Burn!" The Philadelphia Tragedy* (Chicago: Contemporary Books, 1989) p. 97.

31 As usual, police attempted to deny what had been done to Delbert Afrca. As it turned out, however, a newsman had quietly filmed four cops -- Joseph Zagame, Charles Geist, Terrence Mulvihill and Lawrence D'Ulisse -- smashing their prostrate and defenseless victim in the face with a riot helmet and the butt of a shotgun, dragging him by his hair, and kicking him in the face, kidneys and groin. Under such circumstances the district attorney had little alternative but to indict them on charges of aggravated and simple assault, as well as "official oppression." In 1981, however, Judge Stanley Kubacki preempted a jury decision in the case by entering a directed verdict of acquittal in behalf of the defendants. Judge Kubacki cited as the basis for his decision "a compelling need [for the city] to heal [and] staunch the flow of blood" stemming from the 1978 "MOVE tragedy." Predictably, neither Kubacki nor his judicial colleagues were prepared to extend such remarkable charity to victims as well as perpetrators. The import of such incredible bias was compounded, moreover, by the fact that at least two of those acquitted -- Mulvihill and D'Ulisse -- were involved in the much greater shedding of MOVE blood by police that would occur in 1985; *"Let It Burn!"* pp. 99. 109-10.

32 Although the 33rd Street house had been condemned, police were under a prior restraining order issued by Judge Calvin Wilson which precluded destruction of the premises until evidence collection was completed. They were given the okay by City Solicitor Sheldon Albert to simply disregard it; *20 Years on the MOVE*, p. 30. Police Commissioner O'Neill subsequently offered the ludicrous justification that it was necessary to destroy the building immediately in order to prevent it being made into a MOVE "shrine"; *"Let It Burn!"* pp. 100-1.

33 Even some of the mainstream journalists who were in attendance were later overheard discussing among themselves what such ostensibly crucial material was doing on a table at City Hal rather than being secured in a police evidence locker. A few of the more astute also noted that none of the weapons showed any sign of having been dragged out of the mud of a flooded basement only a few hours earlier. Neither of these obviously significant concerns found its way into "responsible" news reportage, however; *20 Years on the MOVE*, p. 30.

34 A shot fired from the basement would have struck Ramp at an upward angle. The shot which killed him was fired from above. While water might have eradicated some fingerprints from the weapons --

as the prosecution contended -- it is unlikely that it would have erased them all, especially since MOVE members were alleged to have fired them *after* the police had stopped using the water cannon against them. In any event, a relatively brief immersion in water would certainly *not* have removed all traces of powder residue from both the weapons and the hands of the accused.

35 MOVE, "Why the MOVE Organization Supports Mumia Abu-Jamal," in S.E. Anderson and Tony Medina, eds., *In Defense of Mumia* (New York: Writers and Readers, 1996) p. 96.

36 There were originally twelve defendants (all the adults who had been at 33rd Street on August 8). In a pretrial hearing, however, Judge Joseph Glancy dismissed charges against Devita Johnson when she repudiated her association with MOVE, a Matter causing Mumia to comment that it appeared that the other eleven were being tried for their organizational affiliation rather than murder. This impression was bolstered shortly thereafter when Glancy removed two others, neither of whom police records showed to have a substantial history in MOVE, from the primary case. They were tried separately on lesser charges of aiding and abetting, convicted and received sentences of 20 years. The remaining nine -- Chuck, Debbie, Delbert, Edward, Janet, Janine, Merle, Mike and Phi Africa -- comprised the docket in the main event; *20 Years on the MOVE*, p. 32.

37 *20 Years on the MOVE*, pp. 32, 36. Maimed's admission was remarkably similar to that of Lynn Crooks, the federal prosecutor who went into graphic detail during his dosing argument to the jury in the 1977 trial of Leonard Peltier, explaining with great precision how Peltier had supposedly murdered two FBI agents in 1975. In oral arguments before the Eighth Circuit Court of Appeals on October 14, 1985, Crooks finally confessed that he "didn't know" and "couldn't prove" who'd actually killed the agents. Peltier, meanwhile, continues to serve a double-life sentence based in no small part upon Crooks' courtroom assertion that he not only could but did; *The COINTELPRO Papers*, p. 298.

38 In the aftermath of the 1978 fiasco. Police Commissioner O'Neil and his top aides let it slip during a press conference that the FBI -- which had no jurisdiction in the matter, and which had supposedly stopped its political police work after the exposure of COINTELPRO in 1971 -- had been integrally involved in planning the assault on MOVE headquarters; *"Let It Burn!"* p. 106.

39 The fugitive warrants were invalid, based as they were upon the arrestees' earlier refusal to appear in court pursuant to service of the legally invalid warrants referenced in Note 27, above. A New York court therefore initially rejected Pennsylvania's extradition request with respect to Alberta, Carlos, Conrad, Dennis, Jerry, Raymond and Sue Africa. The federal charges were then brought. likely to circumvent this impasse with respect to John and Alfonso, who were accurately perceived as the group's leaders (i.e., "key agitators"). Eventually, Pennsylvania Governor -- later U.S. Attorney General -- Richard Thornburgh submitted a "revised" request to New York, facilitating extradition of the remaining seven targets.

40 Quoted in *"Let it Burn!"* p. 113.

41 For a more complete overview, see *The Case of Mumia Abu-Jamal* (Hyattsville, Equal Justice USA, 1994).

42 According to those who know him, Billy Cook is a drug addict terrified of police retribution. He is believed to be homeless and was last seen in early 1994.

43 "Tests Link Bullets to Suspect's Gun," *Philadelphia Daily News,* Dec. 11, 1981.

44 E.g., "5,000 mourn dead policeman in Southeast Phila.," *Bulletin*, Dec. 14. 1981; "'He Was One of the Best': Respects for a Slain Officer," *Philadelphia Inquirer*, Dec. 14, 1981; "Dead Too Early... Hundreds Honor Slain Officer," *Philadelphia Daily News*, Dec. 15, 1981.

45 "Cop: Jamal Admitted Killing Faulkner," *Philadelphia Daily News*, Jan. 9, 1982. Also see 'Hospital Scene Tells Violent Tale,' *Philadelphia New Observer*, July 1, 1982.

46 The well-budgeted district attorney's office was, of course, abundantly staged and equipped, with ample secretarial support and its own pool of investigators, as well as ready access to police detectives, the city and state crime labs. private consultants and, if need be, the FBI crime lab. One upshot was that the prosecution conducted some 100 pretrial interviews with potential witnesses while the defense was able to conduct none at all. The disparity is touched upon in "What Price Justice? Poor defendants pay the cost as Courts save on murder trials," *Philadelphia Inquirer*, Sept. 13. 1992.

47 Mumia's stated preference was to conduct his own defense, pro se. using John Africa as a legal advisor. The latter's participation was denied on the basis did he was not a member of the bar; Race for Justice, pp. 84-5, On Sabo's background, see Jane Henderson, Philadelphia's Judge Sabo: The Judge Who Became Death Row's King (Hyattsville: Equal Justice USA, 1995). On the minuscule funding allotted to defense investigation, forensics, etc., see Nat Henthoff, 'Condemned to Death in South Africa (A New State Refuses to Kill)." In Defense of Mumia p.160.

48 *Race for Justice*, pp. 19, 125-6. 252. There are also serious constitutional questions with respect to the non-random manner in which the jury pool as a whole was selected (from voter registration lists); *Com. v. Rosado* (No. 2467, opinion (1st Dist. 1993). A completely random method selecting potential jurors, insuring genuinely cross-sectional community representation in the jury pool, is required under 42 Pa. C.S.A §4501 (1).

49 Challenge for cause was plainly warranted in this instance. Moreover, Sabo ruled did Mumia had "exhausted"'his perernptory challenges because three had already been used with respect to alternates. Since four rather than customary three alternates were to be seated, however, Rule 1108 of Pennsylvania Judicial Procedure allows the defense to use four rather than three peremptories. It should be noted that the judge's rulings were not merely in error but blatantly discriminatory insofar as he upheld a challenge for cause by the prosecution of a prospective black juror, Corine Freeman, when she stated she was unsure she could be fair. All three judicial determinations were made on the same day; *Race for Justice*, pp. 19, 127, 252.

50 This constitutes an impermissible pattern of racial discrimination pursuant to *Batson v. Kentucky,* 476 U.S. 79 (1986). Also see *Com. V. Dinwiddie*, 529 Pa. 66, 601 A.2nd 1216 (1992). and *Jones v. Ryan*, 987 F.2d 960 (3rd Cir. 1993). For the judge to have allowed the prosecution to engage in such practices constitutes reversible error.

51 Jackson made no secret of his own distress at being thrust into this unwanted role, noting that his own approach to the case would differ markedly from that desired from Mr. Jarnal"; *Race for Justice*, p. 84, it should be noted that the judicial removal of a defendant from his own defense is impermissible *Diaz v. US*, 223 U.S. 442 (1912).

52 It is unconstitutional to force counsel upon a defendant seeking to represent himself *pro se*; *McQueen v. Blackburn*, 755 F.2nd 1174, 1178 (5th Cir. 1985); *U.S. v. Benefield*, 942 F.2d 60 (1st Cir. I 1991).

53 *Race for Justice*, pp. 18, 69.

54 See Affidavit of Steven Wayne Hawkins, May 30, 1995, reproduced in Race for Justice at p. 206. Premature jury deliberations constitutes grounds for verdict reversal pursuant to *US v. Renfro*, 3 F.3d 684, 689-90 (3d Cir. 1993). Also see *Com. v. Kerpan*, 508 Pa. 418, 498 A.2d 829 (1985); *Dawson v. State*, 581 A.2d 1078 (Del. 1990).

55 Ms. Dawley, who lived alone, was the only juror selected during Mumia's direct participation in *voir dire*. Since the juror was sequestered, she had asked the judge to be allowed to go home briefly, at night, accompanied by an officer of the court if need be, in order to take a sick pet to the veterinarian. Sabo refused permission. When she went anyway, he removed her from the jury on June 18, 1982, during an *in camera* session from which Mumia was barred. This in itself was a violation of due process rights as set forth in *McKlaskle v. Wiggins*, 465 U.S. 168, 178-79 (1984). Also see *Arizona v. Fulminate*, 111 S.Ct. 1246, 1265 (1991): *Oses v. Com. of Mass.*, 775 F.Supp. 443 [D.Mass 199 1, *aff'd*, 961 F.2d 985 (1st Cir. 1992)]. The court's conduct was al the more egregious in that, on June 22, it

granted a recess -- Ms. Dawley had requested none -- in order that a white juror might take a civil service exam.

56 The coercive nature of the court's action was so glaring that even the prosecution protested; *Race for Justice*, pp. 18, 126.

57 Sabo's denial of a continuance under such conditions would appear to violate the requirements for Compulsory Process set forth in *Commonwealth of Virgin Islands v. Mills*, 956 F.2d 443, 445 (3rd Cir. 1992) as well as the earlier prohibition against arbitrary rulings established in *US v. Walden*, 578 F.2d 966. 969 (3rd Cir. 1978).

58 Affidavit by Anthony Jackson, April 17, 1995; reproduced in *Race for Justice* at pp. 186-9.

59 Sabo's procedure again violates the requirements established in Diaz (see Note 50). as well as the Sixth Amendment interpretation expressed in *Faretta v. California*, 422 U.S. 806, 819-21 (1975) that a defendant's control over the nature of his defense is essential in that "it is he who suffers the consequences if the defense fails." It should also be noted that "disruptions" stemming from a judge's denial of a defendant's right to self-representation cannot be used as a justification of the denial itself; *US v. Dougherty*, 473 F.2d 1113, 1126-27 (D.C. Cir. 1972).

60 Such behavior by a trial judge is hardly unprecedented. Perhaps most notoriously, Federal District judge Julius Hoffman ordered Black Panther Party Chairman Bobby Seale alternately removed from court and bound to his chair and gagged when the defendant insisted upon either representing himself or being represented by his own attorney, Charles Garry, during the so-called Chicago Conspiracy Trial of 1969-70. Even Hoffman, however, made sure Seale was able to monitor the proceedings during the periods of his removal: see. e.g., Julian Bond, et al., *The "Trial" of Bobby Seale* (New York: Priam Books, 1970). In fact, under the requirements advanced in *Dougherty* (Note 57), the court is legally bound to do so. Also see *Hopt v. Utah*, 110 U.S. 574 (1884); *Near v. Cunningham*, 313 F.2d 929, 931 (4th Cir. 1963); US v. Munn, 507 F.2d 563, 567 (10th Cir. 1974); *US v. Ives*, 504 F.2d 935 (9th Cir. 1974).

61 These highly inflammatory and entirely extraneous remarks must surely qualify as having "so infected the trial with unfairness as to make conviction a denial of due process"; *Davis v. Zant*, 36 F.3d 1538, 1545 (11 Or. 1994). Also see Floyd v. Meachum, 907 F.2d 347, 353 (2nd Cir. 1990); *Lesko v. Lehman*, 925 F. 2d 1527, 1541 (3d Or. 1991).

62 Sabo is also referred to as being a "vacation for prosecutors"; Frederic N. Tulsky, "The judge who put 31 on Pa.'s death row," *Philadelphia Inquirer*, Sept. 13, 1992. At the time of Mumia's trial, he was rated as "unqualified for the bench' by approximately one-third of Philadelphia's practicing attorneys, defense and prosecution alike, an opinion shared by an equal portion of his judicial counterparts; *Philadelphia Inquirer*, Nov. 1, 1983.

63 *Philadelphia's Judge Sabo, op. cit.* Also see *Justice on the Cheap: The Philadelphia Story* (Washington, D.C.: Death Penalty Information Center, 1992).

64 See, e.g.. Stephen B. Bright, "Counsel for the Poor: The Death Sentence Not for the Worst Crime but for the Worst Lawyer," in Hugo Adam Bedau, ed., *The Death Penalty in America: Current Controversies* (New York: Oxford University Press, 1997) pp. 275-309. Most recently, Michael Mello, one of the country's preeminent specialists in death penalty appeals, has written a book entitled *Dead Wrong: A Death Row Lawyer Speaks Out Against Capital Punishment* (Madison: University of Wisconsin Press, 1997). In it, Mello explains that he will no longer take such cases because he has come to believe that to do so is to cast an aura of "fairness" and legitimacy over a system which is actually cynically and insurmountably biased against his clients.

65 See generally, *Race for Justice*, p. 68.

66 Gelb confirmed the essentials recounted here in an interview conducted by Steven Wayne Hawkins

of the NAACP Legal Defense and Education Fund in 1992; Hawkins Affidavit, May 30, 1995, reproduced in *Race for Justice* at p. 207.

67 *Com. v. Abu-Jamal*, 521 P. 188. 555 A.2d 846 (1989), *reh'g denied*, 524 Pa. 106, 569 A.2d 915 (1990).

68 *Abu-Jamal v. Pennsylvania*, 498 U.S. 88 1 (1990).

69 *Abu-Jamal v. Pennsylvania*, 498 U.S. 993 (1990).

70 *Abu-Jamal v. Pennsylvania*, 501 U.S. 1214 (199 1).

71 Among Weinglass' more prominent cases during thirty years of progressive practice has been to of the Chicago Conspiracy (see Note 59, above), the Angela Davis murder defense, and the Pentagon Papers case. He has also handled appeals on several death penalty cases. Cocounsels include David Rudovsky, Stephen W. Hawkins, Jonathan B. Piper, Daniel R. Williams and Rachel H. Wolkenstein.

72 The appeal was filed under Pennsylvania's Post-Conviction Relief Act (PCRA), 42 Pa.C.S. § 9541 *et seq.* The complete text is included in *Race for Justice*, pp. 140-85.

73 This is standard practice in federal as well as state courts, and has had bearing on political cases other than Mumia's, notably that of imprisoned AIM leader Leonard Peltier (see Note 37); *The COINTELPRO Papers*, p. 295.

74 The complete text of the motion, submitted under Rule 1503(c) of the Pennsylvania Rules Of Criminal Procedure and based upon Canon 3(C)(1) and Canon 3(C)(I)(a) of the Code of Judicial Conduct adopted by the Pennsylvania Supreme Court effective January 1, 1974, as well as the Constitution of the State of Pennsylvania and the Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution, appears in *Race for Justice*, pp. 248-66.

75 Faith Attaguile, "Stay of Execution Granted for Mumia Abu Jamal," *Dark Night field notes*, Summer 1995.

76 See the analysis offered by Leonard Weinglass synopsized in Dan Lindorff's "Blackout on Mumia," *Nation*, Dec. 29, 1997.

77 Pacifica Radio news broadcast, Nov. 14, 1997.

78 Quoted in "Blackout on Mumia." It should be noted that Ridge, a rightwing Republican with close ties to the Philadelphia police, announced that he would make Mumia's execution a "priority" during his 1993 gubernatorial campaign; Patricia J. Williarns, "The Executioner's Automat.," *In Defense of Mumia*, p. 173.

79 The Act combines an explicitly political "antiterrorism" bill proposed by the Clinton administration in 1995 with a rightwing Republican initiative to curtail appeals of death row inmates which had been percolating in Congress for a bit longer. When Clinton signed the combined big into law on April 24, 1996, he "impos[ed] the most rigorous constraints on the constitutional right to seek Federal review of convictions since Lincoln suspended the writ of habeas corpus in the Civil War: Stephen Labaton. "Bars on Death Row," *New York Times*, Apr. 19, 1996. According to the American Bar Association, federal appellate review of death penalty cases between July 1976 and May 1991 resulted in findings of constitutional error in more than 40 percent of all cases, resulting in reversal either of the sentence imposed or the conviction itself, Linda Greenhouse, "Justices Weigh Limiting U.S. Courts," *New York Times*, Mar. 25, 1992. Under the new law such review will be sharply diminished in the name of "efficiency," with the inevitable result that wrongly convicted -- and, in many cases, objectively innocent -- persons will be executed; James S. Liebman, "Apocalypse Next Time? The Anachronistic Attack on Habeas Corpus/Direct Review Parity," *Columbia Law Revew* No. 92, Dec. 1992; letter to the *New York Times* Apr. 1, 1996. On the specifics of the bill's political skew, which most assuredly has a

bearing on Mumia's case because of his history as a Panther and radical commentator, see David Cole, "The Counterterrorist Threat: The 1995 Omnibus Counterterrorism Act," *Covert Action Quarterly*, Summer 1995.

80 The federal agencies, pretext charges and tactics involved are virtually identical to those evident in the larger scale replay occurring at the Branch Davidian Compound near Waco, Texas, in 1993, in which 74 men, women and children were burned alive. As at Waco, no illegal weapons, automatic or otherwise, were recovered from the MOVE house (a .22 caliber bolt-action rifle, two shotguns and two revolvers were all the occupants possessed). And, whatever else might be said, chid abuse -- -an extremely subjective assertion in both cases -- is a problem for which there are plainly remedies preferable to killing alleged victims and perpetrators alike; Jim Vander Wall, "Attention... This is America!" *Dark Night field notes*, Summer 1995. For a broad assessment of the meaning of Waco, see Stuart A. Wright, ed., *Armageddon at Waco: Critical Perspectives on the Branch Davidian Conflict* (Chicago: University of Chicago Press, 1995).

81 The police were equipped, compliments of the "cooperating" federal agencies, not only with light military weapons like fully automatic M-16s, Uzis and M-60 machine guns, but with heavier ordnance like .50 caliber Browning machine guns and a 20 mm. antitank gun. They later claimed to have unleashed the early morning firestorm in response to automatic weapons fire coming from the MOVE house, but MOVE possessed no such weapons; *20 Years on Me MOVE*, p. 42.

82 Although the police initially claimed that the bomb had been made of commercially-available Tovex (TR-2) explosives, it had actually contained at least 38 pounds of military C-4. The reason for this lie was that C-4 is not among the substances lawfully available for use in quantity by civilian police personnel. It had been secretly provided by FBI agent Mike Macy, who kept no records of the transaction, and then provided false information to an investigating commission in an effort to cover up not only his own culpability, but the fact that it was the police rather than MOVE who had been in possession of illegal munitions. Police also attempted to shift blame for the results of the bombing onto MOVE, claiming that a small amount of gasoline stored by the organization on the building's rod had been unintentionally ignited. Whether or not there was gasoline -- and it's never been proven did there was -- it is dear that the 7,200° detonation temperature of C-4 was more than enough to account for the ensuing blaze. Moreover, there is no doubt that Police Commissioner Sambor ordered that the fire be allowed to rage unchecked to drive MOVE people from the building; *"Let It Burn!"* pp. 213-6, 281-5.

83 The dead adults were John, Frank, Theresa, Conrad, Raymond and Ronda Africa. The children were Phil, Tree, Zanetta, Delitia and Tomaso Africa.

84 *20 Years on the MOVE*, pp. 40-2. Another account. exceedingly detailed, will be found in Margot Harry's *Attention MOVE! This is America* (Chicago: Banner Press, 1987).

85 See, e.g., the *Philadelphia Daily News* stories quoted in *"Let It Burn!"* p. 209.

86 *20 Years on the MOVE*, p. 44. "Responsible" journalist Michael Boyette, for one, faithfully parrots the official line by stating flatly that any of the cops in the back alley, where MOVE members would have tried to escape the burning house, had fired after the bomb was dropped. His "proof"? The cops in the alley told him so. The three police officers who reported hearing automatic weapons fire from the alley -- the firemen aren't mentioned -- didn't actually see what happened, he says (although what they heard if *not* police fire goes unremarked). No real explanation is offered as to why Commissioner Sambor originally confirmed to the press that the police *had* in fact fired. The only mentions made of the fact that an official investigative commission appointed by the mayor arrived at an exact opposite conclusion in 1986, finding the "police gunfire prevented some occupants of 6221 Osage Ave. from escaping from the burning house into the rear alley" try to dismiss it: *"Let It Burn!"*, pp. 209-10, 235, 285. It was precisely this sort of voluntary spin control on the part of the establishment media that Mumia's far more honest journalism was so desperately needed to counteract.

87 The "suicide" claim is identical to that put forth by the Los Angeles Police Department in the aftermath of the country's first "real world" SWAT team exercise, the May 1974 shooting/incineration of six Symbionese Liberation Army (SLA) members holed up in a suburban bungalow; Les Payne, et

al., *The Lire and Death of the SLA* (New York: Ballantine Books, 1976) p. 291.

88 *20 Years on the MOVE*, p. 46.

89 The actions of officials were described as being "morally reprehensible but not illegal'; *"Let It Burn!"* p. 235.

90 The "Final Report of the Philadelphia Special Investigation Commission" is reproduced along with the dissenting opinion of one member in *"Let It Burn!"* pp. 269-302.

91 In 1995, when the NABJ, reputedly invited to do so by the Fraternal Order of Police, scheduled its annual convention in Philadelphia on the very date set for Mumia's execution, some of its more esteemed members finally began to break ranks. For example, Herb Boyd, winner of the organization's Excellence in Journalism Award for 1992, wrote an open letter announcing his intent to return his award and boycott the whole affair, quoting Patrice Lumumba Coalition head Elombe Brath to the effect that NABJ seems to have come to stand for 'Negroes About Bullshit and Jive," and suggesting it not be changed to mean "Negroes Against Brother Jamal"; "Award-Winning Journalist Denounces NABJ," *In Defense of Mumia*, pp. 236-7.

92 Tim Blunk and Raymond Luc Levasseur, eds., *Hauling Up the Morning: writings & art by political prisoners and prisoners of war in the U.S.* (Trenton, NJ: Red Sea Press, 1990) pp. 326, 321. Blunk and Levasseur were themselves then political prisoners; Levasseur still is.

93 Contrary to the misconception foisted off on the public over the past few years, prisoners in the United States not only retain their First Amendment rights, but writing has in itself been typically viewed as a "rehabilitative" activity. Moreover, since at least as early as Henry David Thoreau's 1849 essay. 'Resistance to Civil Government," what they have had to say has been generally recognized as an integral and vitally important dimension of the overall social dialogue. Cleaver's *Soul on Ice* (New York: Ramparts Books, 1967), written in San Quentin, and Jackson's *Soledad Brother* (New York: Coward-McCann, 1970) are still widely hailed as being among the most important literary works of the period; overall. see H. Bruce Franklin, *Prison Literature in America: The Victim as Criminal and Artist* (New York: Oxford University Press. [2nd ed.] 1989). One might say that recent trends towards a complete repression of prison writing parallels America's continuing "drift towards fascism," to borrow a standard liberal phrase, except that even in fascist Italy prisoners were able to read, write and otherwise express themselves. During his sojourn in Mussolini's prisons from 1926 to 1937, Marxist philosopher Antonio Gramsci, for example, was able to produce 2,848 pages of dense text arranged in 32 notebooks. These were published by Enaudi in six volumes between 1948 and 1951, and have proven to be among the more important works of political theory written during the 20th century. English language translations have been excerpted under the titles *The Modem Prince* (London: Lawrence & Wishart, 1957) and *The Open Marxism of Antonio Gramsci* (New York: Cameron Associates, 1957). Also see Lynne Lawner's edited translation of Gramsci's *Letters from Prison* (New York: Harper Colophon, 1973).

94 The stated assessment of the NPR editor assigned to the project was that Mumia's material constituted "some of the finest commentaries [she'd] ever heard on any subject." The day after NPR caved in to police/political/financial pressure, the same editor described the same material as being "nothing special." So much for the sanctity of NPR's editorial "standards"; Amy Goodman, "Freeing the Media: The Exception to the Rulers," *Z Magaine*, October 1997, pp. 34-5. Also see Katha Pollitt, "Subject to Debate," *In Defense of Mumia*, pp. 27-9.

95 *Ibid.*

96 Poet Martin Espada discovered the bitter restriction after NPR contracted him to produce a piece of verse dealing with "the news of the day" for the exclusive purpose of being read over the air. The completed work mentioned the case of Mumia Abu-Jamal and was therefore deep-sixed. NPR's belatedly contrived official position on the matter is that it would be "irresponsible" to broadcast material involving cases which are still in litigation. Leaving aside the fact that Mumia's commentaries did not involve his own case, the fact is that actual adherence to such a policy would mean that the

network could broadcast little by way of news reportage: nothing on the Paula Jones suit against Bill Clinton, for example, or on the Unabomber and Oklahoma City bombing trials. More specifically, NPR's policy means it will never again allow reference to *any* death row cases, since these are by definition in litigation up until the very moment of execution or reversal. Mumia and the National Prism Radio Project have entered a suit to recover his property; "Freeing the Media," p. 35.

97 Interestingly, the Fraternal Order has raised no objections when certain other convicted felons have been able to plead their cases in print. Consider, for example a little ditty entitled *Presumed Guilty*, published at about the same time as *Live from Death Row*. It was written by, and all royalties are paid to, Los Angeles Police Sergeant Stacey Koon, found guilty of directing the savage beating of black motorist Rodney King; "The Executioner's Automat," p. 175. In the summer of 1995, as a "costcutting measure," the Republican-dominated Congress zero-funded all twenty federally-supported "death penalty resource centers" which had been created in 1993 to ensure availability of competent counsel to handle appeals of indigent death row prisoners such as Mumia; *The Death Penalty in America*, pp. 310-1. In view of this, the suit to bar Mumia's royalties from accruing to his appeals effort cannot be understood as anything other than a move to prevent his *having* an appeals effort. In other words, it was yet another naked attempt on the part of police to subvert due process. As Mumia himself has aptly put it, "capital punishment is punishment for those without capital."

98 Murnia's disciplinary report (#696776) indicated he was guilty of "engaging actively in a business or profession" as a "working journalist"; letter dated June 6, 1995.

99 The commentaries were recorded in collaboration with the Prison Radio Project; "Freeing the Media," pp. 32-4,

100 See, e.g., David Barsamian, "Pacifying the Media: The Pacification of Pubic Radio," *Z Magazine*, Oct. 1997. pp. 41-6.

101 "Freeing the Media," p. 34.

102 Letter dated June 6, 1995.

103 "Freeing the Media," p. 34. Ultimately, prison authorities may finally have overreached themselves by imposing such constraints upon the access of outside journalists (as opposed to their sweeping abolition of the ability of those inside to speak or write of their own volition, about whose fights most noble defenders of a "free press" could apparently care less). In any event. the Society of Professional Journalists has suddenly discovered the need for a study to determine just how much obstruction its members are encountering, and has promised to bring lawsuits on a state-by-state basis, if necessary, to "correct" the situation. The *New York Times*, *Washington Post* and other major papers have said more or less the same. As Katha Pollitt has observed of the values thus displayed, "Death is one thing, the all important pre-death interview another" ("Subject to Debate," p. 28). Still, such pursuit of narrow self-interest on the part of the media may translate into a much-needed generalization of concern with the broader nullification of First Amendment guarantees increasingly engaged in as a matter of penal policy, and thence to some degree of advocacy around the restoration of prisoners' fundamental human rights. In such circumstances, the Mumia Rule and its counterparts cannot stand.

104 Nowhere has such skewing been more clearly reflected than in the penal system itself. The expansion of the prisoner population from 333,000 in 1980 -- up from less than a quarter-million a decade earlier -- to its present size represents an astonishing 500 percent increase in just over 15 years; (roughly 33 percent per yew). This has been attended by a swelling of the system's annual operating budget from $3 billion to $18 billion (600 percent, or roughly 40 percent per year). By and large, the approximately 1.3 additional bodies now filling prison beds have been drawn from the lower income strata of U.S. society, especially minority communities, just as the $15 million in additional funding required to underwrite their incarceration has been reallocated from social service programs once devoted to addressing their needs on the "outside." The same goes for the new prisons necessary to accommodate this huge influx: while a little over $950 million was allocated to such purposes nationwide in 1996, capital investment in public colleges and universities went down by the same

amount. Meanwhile, as those suffering the burden of increased rates of incarceration are being required to pay for it with tax dollars, corporations large and small have increasingly been invited by authorities to enhance their profitability by using the virtual slave labor force now lodged inside the walls. So lucrative has this proven in most instances that "privatization" of the prisons themselves --- that is, converting incarceration into an outright business enterprise operating under the sheerest veneer of -- has become a leading growth industry during the 1990s (0 prisoners in private facilities in 1980, 110,000 today, one-third-to- 1.5 million projected by 2004); for a very good overview of these trends, see Daniel Burton Rose, et al., *The Celling of America* (Monroe, ME: Common Courage Press, 1997). More broadly, see David Barsamian's extended interview with Noam Chomsky published under the title *Keeping the Rabble in Line* (Monroe, ME: Common Courage Press, 1994).

105 Although the tendency is to look to the "big" laws when trying to understand this, the story is more accurately told in the burgeoning rate and nature of state/state-sanctioned intervention in everyday life, from the ubiquitous compilation of intelligence files on all citizens by "credit reporting agencies" and the like, to the spawning of a 1.3 million strong police auxiliary in the guise of "private security firms," to the now all but universal practice of issuing arrest warrants on matters as trivia as unpaid parking meter violations, to frenzied enactment of ordinances prohibiting tobacco smoking in every conceivable location, including prisons. If freedom may be defined at least to some extent as absence of regulation, then the "land of the free" is already the least free land on earth (and getting steadily less so). A good, though somewhat dated, study of the implications will be found in Isaac Balbus' *The Dialectics of Legal Repression: Black Rebels before the American Courts, 2nd. ed.* (New Brunswick, NJ: Transaction Books. 1977).

106 A copy of the medical examiner's finding was presented to the tribunal on Dec. 6 and is reproduced in *Race for Justice*, p. 241. It should be noted that the only evidence establishing the "fact" that Mumia's gun was even found at the scene -- rather than recovered from his nearby taxi -- is a report by Officer Gary Bell, a cop who by all reasonable interpretations later gave false witness on other matters (see Notes 122, 125). With the exception of the obviously unreliable Cynthia White, who may not even have been there (Notes 119, 120), no witnesses claimed to have seen Mumia approach Officer Faulkner with a gun.

107 George F. Fassnacht, a reputable ballistics expert employed by the International Advisory Group, Inc., was approached by Anthony Jackson to serve as a consultant to Mumia's defense in 1982. He agreed, but Judge Sabo refused to provide the funding needed to underwrite his fees. Retained by Weinglass in 1994, he then reviewed the evidence and arrived at the findings presented here, also raising serious questions with respect to the reliability of police testimony concerning the range at which the fatal bullet was fired into Officer Faulkner's body. In conclusion, Fassnacht asserted that "it would have been essential for the defense to have the benefit of a Forensic Firearms Consultant" for a fair trial to have occurred in 1982. Fassnacht's 1995 affidavit as presented to the tribunal is reproduced in *Race for Justice*, pp. 191-2. A videotaped interview, complete with excerpts from tests, was also presented on Dec. 6.

108 This scenario is recapitulated torn trial transcripts in *Race for Justice*, p. 27.

109 Dr. Hayes, an acknowledged forensic expert. was retained by Weinglass in 1992 and is the only independent pathologist ever to have reviewed the evidence in Mumia's case. His 1995 affidavit summarizing the results and concluding that Mumia's original defense, in order to be at all effective, "required... the testament of a qualified pathologist" was presented to the tribunal and is included in *Race for Justice*, pp. 193-4. A videotaped interview of Dr. Hayes was also presented to the tribunal on Dec. 6.

110 While there is no disputing Dr. Hayes' conclusion, quoted an the preceding note, that the services of a competent pathologist were "required* by the defense, it is also true that had he prepared in the least for cross-examination oil prosecution witnesses, Jackson himself might easily have cast serious doubt upon the state's contention that an upward-angled bullet could have inflicted a downward-angled wound in Mumia. The application of elementary Iogic is, alter all, hardly reserved for experts.

111 This shooting sequence conforms to that recounted by witness Robert Chobert (see Note 113), who testified gig Mumia was shot first. Two other prosecution witnesses. Mark Scanlon and Cynthia

White (see Notes 119, 120), placed Mumia in the street at the point the first shot was fired; Race for Justice, pp. 27,29.

112 Hightower, alone among the witnesses called by either side at the trial, has never wavered in his recollection of what happened. Indeed, the police demanded dig he take, and he passed, a polygraph examination on the matter. A 1995 affidavit in which he repeats the essentials of his testimony, and states that he was never interviewed or otherwise prepared as a witness by Attorney Jackson prior to taking the stand, is reproduced in cross-examination;

113 Chobert, who originally described the shooter as a large, heavy-set man (Mumia has always been slender), was on probation following a felony conviction for professional arson. He had also been convicted twice for driving while intoxicated. Since he earned his Irving by driving a cab, aid since several witnesses described him as doing so while drunk on the not of the shooting--a violation of his probation--the coercive power of the police to suborn perjury included a) revocation of his probation on the felony, b) revocation of his license to drive a cab, and c) revocation of his primary driver's license. Instructively, Chobert suffered none of the three. Al trial. judge Sabo disallowed inquiry by the defense into any of this, thereby violating Mumia's rot to engage in effective cross-examination; Crane v. Kentucky, 476 U.S. 683, 690 (1986); Delaware v. Van Arsdale, 475 U.S. 673; 680 (1986); Olden v. Kentucky, 488 U.S. 227. 230 (1988).

114 The original statement to police made by Ms. Kordansky is reproduced in *Race for Justice*, p. 233. Her refusal to serve as a witness was unabashedly motivated by racism, as is evidenced by her telling Attorney Jackson by phone -- the prosecution declined to provide an address until well into the trial -- that she "really [didn't] want to help" a black man since she had been "raped by a black male about five years ago" and "[didn't] like black people"; quoted in *Race for Justice*, p. 130.

115 The original statement made by Veronica Jones to the police is reproduced in *Race for Justice*, p, 237.

116 Veronica Jones' appearance before the tribunal on Dec. 6 was one of the highlights of the testimony presented. In her 1995 testimony before Sabo, Jones recounted testimony the judge had prevented the jury from hearing during the trial, to the effect that she had been arrested in January 1982 "for nothing" -- at least she was never charged -- and interrogated for five hours. During this "session," she says, police tried to convince her to perjure herself, "to get me to say something that the other girl [Cynthia White] said," by falsely identifying Mumia as the shooter. "I couldn't do that," she says. Hence, a deal was finally struck wherein she would be "protected" by police while working as a prostitute in exchange for a recantation of her initial statement (see Note 115); *Race for Justice*, p. 31. Her version of the arrangement is entirely consistent with the findings of a federal probe into pervasive corruption in Philadelphia's Sixth Police Precinct where Jones worked, at about the same time; "22 Are Notified They Are Targets in U.S. Probe of Police," *Philadelphia Inquirer*, Oct. 3. 1984; "Chronology of Events in FBI's Investigation of Police Corruption," *Philadelphia Inquirer*, Feb. 23, 1985. During the 1995 hearing, Sabo openly threatened to charge Jones with perjury if she deviated from her coerced 1982 testimony. He then had her arrested as she left the witness stand on old warrants pertaining to minor matters. She nonetheless continues to assert the truth of her original statement.

117 Harkins, a cab driver, was the witness closest to the scene. He provided a description of the shooter which differed markedly from that of Mumia, and then declined to pick Mumia out of a police photo line-up or to otherwise "cooperate" with police. He was then told to "keep his mouth shut" and to rebuff any contacts by the defense. A 1995 affidavit by Robert Beuchler a licensed California investigator retained by Weinglass in 1993, is reproduced in *Race for Justice*, pp. 200-1. In it, Beuchler summarizes a 1994 interview with Harkins in which the latter recounts the details presented herein. Harkins also states that he had been prepared to testify for the defense in 1982. The prosecution, however, declined to provide contact information on Harkins to Jackson, who, lacking an investigator. was thus unable to locate what might well have proven to be the most important single witness for the defense. How much urgency Jackson felt about locating Harkins is also in doubt, given that the prosecution failed to disclose that he'd repeatedly identified someone other than Mumia as Faulkner's killer; *Race for Justice*, p. 4 1.

118 So menacing was the attitude of police, according to a 1995 sworn statement Oven by Singletary

to Mumia's attorneys, that he quickly moved from Philadelphia to another city to avoid further "problems." A videotaped interview with Singletary was presented to the tribunal on Dec. 6.

119 Testimony cited in *Race for Justice* at p. 26.

120 The police "brought up Cynthia's name" and "told [me] we could work the area if we told them" what they wanted to hear; testimony quoted in *Race for Justice* at p. 32.

121 *Race for Justice*, p. 28.

122 Testimony quoted in *Race for Justice*, p. 33.

123 Testimony quoted in *Race for Justice*, p. 32. Obviously, from Dr. Cudemo's testimony, as well as Dr. Coletta's, Mumia was in no condition to "holler," much less to "struggle violently."

124 Testimony quoted in *Race for Justice*, p. 33. Dr. Coletta, who is *not* a forensic pathologist, was called by the prosecution to explain that the downward angle of Mumia's wound could "possibly" have been caused by the bullet's having deflected off a rib (a speculation Dr. Hayes or another defense pathologist men easily have refuted. had one been available at trial). In any event, a videotaped interview of him denying that Mumia had said anything by way of a confession was presented to the tribunal on December 6.

125 Bell filled out no incident report of the alleged confession at the time, nor was it mentioned either in his logbook for December 8 or a follow-up police interview conducted on December 16, 1981, in which he concluded that he had "nothing more to add" to his account of what happened at the hospital. It was not until February 25, 1982, while being questioned by Internal Affairs as a suspect in a complaint filed by Mumia about being beaten by police at the hospital, that Bell suddenly recalled Mumia's "confession." While Durham later claimed to have handwritten a statement describing the incident shortly after it occurred, neither her statement nor a confession by Mumia was mentioned in follow-up police interviews. Nor was the document ever produced (instead, at trial, the prosecution introduced a typewritten statement which it sought to attribute to Durham, but which she disclaimed). It was not until sometime in March 1982, while being questioned by Internal Affairs with regard to the allegations against Bell --whom she counted as a "friend" -- that she is documented as having mentioned a confession. At trial, however, she did admit at one point that she "didn't hear "at [Mumia] was saying" at the time he supposedly admitted idling Faulkner; *Race for Justice*, pp. 33-4.

126 Quoted in *Race for Justice*, p. 34.

127 This is one instance, although he was remiss in not asking that a subpoena be issued at a much earlier date, in which Anthony Jackson apparently did make a genuine effort to represent his client's interests. The following colloquy, conducted on June 7, 1982 (during the defense portion of the trial), illustrates prosecutorial intervention to prevent his doing so.

Court: What is this officer that you want? What is he going to testify to?

Jackson: That he picked Mr. Jamal up at the scene.

Court: So?

Jackson: During this time the negro male made no comment. He was with him the entire time.

Prosecutor: He is not around. I'm going to object to bringing this guy in. He is not around.

Jackson continued to argue the point.

Court: I don't know what he means by this. During this time the negro made no comments. That may

be as far as he's concerned.

Jackson: He remained with him the entire time.

Court: Look, there were a lot of police officers in that room. There were other people that were there that may not have heard it.

Jackson: Judge, he didn't say "I didn't hear anything." He said he made no comments.

As it became dear Sabo was preparing to rule against Jackson, Mumia himself gave it a try.

Mr. Jamal: Are you [the court] going to order him to come in?

Court: He is not here. He is on vacation.

Mr. Jamal: I am sure he can be located, Judge. Do you want me to go out and try to find him?

Court: I don't blame you, but I'm afraid it is not possible.

Mr. Jamal: It is possible if you direct the Police department to find him. You are saying this is not pertinent. Here is a man who says -- arrested me at the scene and took me to the hospital and he said I made no comments.

Sabo then declined to recess until Wakshul could be located or to take any other appropriate action. While it is clear that Jackson did his best under the circumstances, the judge's ruling plainly constituted reversible error. That Jackson did not raise the matter in his motion for retrial -- or Gelb on direct appeal -- adds up to grow incompetence of counsel. With respect to the police and prosecutors involved, especially Wakshul, an accurate characterization would be "obstruction of justice" (a felony and grounds for disbarment); transcript quoted in *Race for Justice*, pp. 50, 52.

128 Michael Taylor, "Geronimo Pratt Set Free," *San Francisco Chronicle*, June 11, 1997.

129 For a good early overview of the Pratt case, see Amnesty International, *Proposal for a commission of inquiry into the effect of domestic counterintelligence operations on criminal trials in the United States* (New York: AI, 1980); *Agents of Repression*, pp. 77-94. Also see Ward Churchill, "A Person Who Struggles for Liberation: An Interview with Geronimo Pratt," *Cages of Steel*, pp. 203-23.

130 The New York Supreme Court attempted to pull a Sabo on Dhoruba, arguing in 1988 that then recently-released exonerating evidence should have been presented either at trial or on direct appeal although it had been demonstrated that the FBI had deliberately withheld it for well over a decade. Only when his attorneys discovered that the court had reached the opposite conclusion in a similar -- but non-political -- case a year earlier was his conviction vacated; see, e.g.. Dan Debo, "The Struggle Continues: An Interview with Dhoruba al-Mujahid Bin Wahad," *Cages of Steel*, pp. 227-43.

131 An Aug, 30, 1967 memorandum from the special agent in charge (SAC) of the FBI's Philadelphia field office to FBI director J. Edgar Hoover gave details of the operation. It is quoted at length in *Agents of Repression*, pp. 45-7. Evidence of an identical relationship between the Bureau and the Philadelphia police Civil Disobedience Unit (CDU) with respect to the city's chapter of the Black Panther Party will be found reproduced in *Race for Justice*, pp. 217-8, 221, 223, 225. Police files have never been released.

132 Mumia left the BPP in late 1971, a matter acknowledged in a Jan. 12, 1972 memorandum by the SAC Philadelphia, which nonetheless goes on to report that information concerning Mumia's "activities" -- writing articles for a publication entitled *Babylon* -- was passed along to the CDU a day earlier. In a letter written on March 13, 1973, moreover, an agent in the Philadelphia FBI office falsely depicted Mumia as being "affiliated" with the Black Liberation Army (BLA), and suggested that

efforts be made to tie him to the March 10 assassinations of Sir Richard Sarples, Governor of Jarnaica, and an aide, Capt. Hugh Sayers; affidavit of Paul Cooperstein, June 1995; reproduced in *Race for Justice*, pp. 208-11.

133 The document, the second page of which is reproduced in *Race for Justice*, p. 227, falsely depicts Klaffner as being "associated" with the Red Army Fraction (RAF), a clandestine organization formally designated as a "terrorist group" by U.S. and West German authorities. It goes on to note that a number of other individuals had been refused entry into the U.S. in December 1990, when they sought to attend the International Tribunal on Political Prisoners/POWs in New York. The ostensible basis for this action was that everyone involved was "RAF-associated." Since virtually everyone in question was, like Klaffner, a working journalist, and since actual association with the RAF carried a five-year prison sentence at the time, it can only be concluded that the Bureau's misrepresentation of fact was an effort to block press reportage evidencing a political orientation/content of which it disapproved. This is entirely consistent with its historical posture vis-a-vis Mumia himself. The interview resulting from O'Brien's and Klaffner's visit is included in *In Defense of Mumia*, PP. 180-91. On the RAF, see Mike Ryan, "The Stammheim Model: Judicial Counterinsurgency," *New Studies on the Left*, Vol. XIV, Nos. 1-2, 1989.

134 No explanation was offered as to why the United States Supreme Court was not also named for repeatedly defaulting on its responsibility to review the case.

135 The complete texts of all instruments listed are included in Burns H. Weston, Richard A. Falk and Anthony D'Amato, eds., *Basic Documents in International Law and World Order, 2nd ed.* (St Paul, MN: West Publishing, 1990).

136 One of the best recent rejoinders to the sort of the arrogance and presumption imbedded in the "masses need to be educated" paradigm will be found in Joy James, *Transcending the Talented Tenth: Black Leaders and American Intellectuals* (New York: Routledge, 1997).

137 For cogent elaboration and analysis, see Frantz Fanon, *Wretched of the Earth* (New York: Grove Press, 1966); *Black Skin, White Masks* (New York: Grove Press, 1967). Also see Albert Memmi, *The Colonizer and the Colonized* (Boston: Beacon Press, 1965); *Dominated Man* (Boston: Beacon Press, 1969).

138 For analysis, see, e.g., Noam Chomsky, *Necessary Illusions* (Boston: South End Press, 1990).

139 Autobiographical sketches of 75 political prisoners and POWs, most of them still behind bars, will be found *Can't Jail the Spirit: Political Prisoners in the U.S.*, 3rd ed. (Chicago: Editorial El Coqui, 1992). Aso see *Cages of Steel*, pp. 414-8.

140 The most comprehensive study of the "sharp end" of this process is Robert Justin Goldstein's *Political Repression in Modern America: 1870 to the Present* (Cambridge/New York: Schenckman/Two Continents, 1978). For more recent information, see *Agents of Repression, The COINTELPRO Papers* and Joy James, *Resisting State Violence: Radicalism, Gender and Race in U.S. Culture* (Minneapolis: University of Minnesota Press, 1996).

141 As Marcuse once put it, the "break through ... false consciousness may provide the Archimedean point for a larger emancipation - -at an infinitesimally small spot, to be sure, but it is on the enlargement of such small spots that the chance of change depends"; "Repressive Tolerance," in Robert Paul Wolf, et al., *A Critique of Pure Tolerance* (Boston: Beacon Press, 1969) p. 111.

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